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MINING LAW
COURSE DEVELOPMENT

MANAGEMENT AND LEADERSHIP
WORKSHOP PROJECT

BY

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1998

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MINING LAW
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BACKGROUND

In 1986, a Bureauwide Administrative and Technical Program Review was done in all states on the mining claim recordation program. The most important issue raised during the review concerned training personnel in mining law and recordation adjudication procedures and associated case law. The report stated:

> The Bureau, in the last five or six years, has had a substantial turnover in trained adjudicators that have worked in the MCR and mineral patent programs. Many have retired and others have rotated into non-mining law/MCR adjudication positions. Their positions have been filled with entry level adjudicators who are learning their skills by on-the-job experience rather than by formal training that prepares them for their job role. This results in considerable lost effort and efficiency in the first 9-14 months of the adjudicators time on the job. It also causes lost time for the upper level adjudicators as they have to closely supervise the entry level personnel due to their lack of training in the program area.

In April 1988, the Bureau conducted a Mining Law Administrative Program Evaluation which included field visits to Arizona, California, and Nevada. One of the recommendations made by the evaluation team concerned training in mineral patent applications:

> The Phoenix Training Center should design a course similar to the Master Adjudicator Seminar series that will allow the small, Bureauwide cadre of Mineral Patent Adjudicators to convene for the exchange of ideas, concerns, and problems. The course should be held at approximately 3-year intervals.

For Processing Mineral Patent Applications, we decided to cover application requirements, title, validity examinations, contests, protest, appeals, patent reservations, finality of patents, and equitable adjudication.

Each major topic had a tab in the handbook. Behind each tab, we included an in-depth outline germane to that particular topic, relevant source materials such as BLM manuals, important IBLA decisions, Solicitor's opinions, and instruction memorandums. We also listed sources for more information including CFR citations, Supreme Court decisions, and important statutes. For some topics, we wrote monographs in order to succinctly combine myriad sources of information.

After putting together the master handbooks, it was fairly easy for us to divide teaching assignments according to our interests and expertise. We discussed what types of pre-session assignments, exercises, case studies, and presentation materials we needed to develop.

We met our goal of accomplishing course development during our one week work session. However, we broke up the meeting by preparing a lengthy list of things we had to do in order to meet our other deadlines!

In May, we sent our master handbook for the Basic course, along with exercises and one case study, to the PTC for copying. In June, we taught the course in Phoenix. In addition to written evaluations from the participants, we conducted an oral evaluation as well. We learned that those participants from the Mining Claim Recordation (MCR) program were extremely happy to have the handbook. We encouraged those not in MCR to pass on the handbooks to the MCR people in their respective states.

Also in June, we sent our master handbook for the Mineral Patent course, exercises, and two case studies to the PTC for copying. The first week in August, we taught the two-day course to 20 participants from six states and the Forest Service at the Portland State Office. The second week, we taught the course in Denver to 14 participants from four states.

Written evaluations showed that many participants wished the course was longer than two days. Most appreciated the opportunity to be there, the time spent interacting with their peers from other states, and the handouts. For this course, in addition to our handbook, we gave a copy of Terry Maley's book, Mining Law from Location to Patent, to each participant.

WRAP-UP

From the evaluations, we have gleaned suggestions to make the courses meet participant needs. A few are readily acceptable to us, like the suggestion to use examples of location notices in one of the exercises from three or four states rather than one for the Basic course. Others, like making the Patent course longer to allow more time for additional exercises, require more evaluation from us.

Both of the courses address the concerns and meet the recommendations for training made in the 1986 Program Review and the 1988 Evaluation. The 1988 Evaluation recommends that the Mineral Patent course be held at three-year intervals. We have received several requests to hold the course again next year. This is another recommendation which requires serious thought from us and the Washington Office.

THE FUTURE

Our primary purpose in developing the two courses was to impart knowledge to BLM adjudicators on mining law. As a result, we hope to see fewer appeals to the Interior Board of Land Appeals because of adjudicative error.

Our secondary purpose was to design the courses so they could be taught by any experienced mineral land law examiner and Washington Office mining law program leader. We think we have accomplished this in a number of ways. First, the handbooks themselves meet the objective. They provide the guidance for instructors in the future. All an instructor has to do is review the handbooks, remove outdated material, add new material, and appropriately edit the course outline. Second, we have developed excellent case studies and exercises which should stand the test of time. Third, we are preserving institutional memory by having three originals of each handbook - one at the PTC, one with me, and one with Roger Haskins. And fourth, we are already surveying and recruiting others as replacement instructors.

CLOSING COMMENTS

I strongly feel it is important for the Bureau to commit to and believe in adjudicative excellence. Our land law examiners in lands and minerals are an important resource which must be nurtured and developed. We are on the front lines in helping area managers, district managers, and deputy state directors make decisions as to lands and minerals. We also write the formal decisions implementing the laws and regulations which the managers sign.

The courses Roger Haskins and I developed and taught reflect management commitment to excellence in mining law. I appreciate the opportunity given to me to work on a project which, I hope, will continue to play a part in producing adjudicative excellence.

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